

# Exhibit A

Garth Haynes

July 10, 2013

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

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JAKE BAIJOT-CLARY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. C12-1096 JCC
	)	
GARTH HAYNES (individually	)	
and in his official	)	
capacity); CHRISTOPHER	)	
CHRISTMAN (individually and	)	
in his official capacity);	)	
and THE CITY OF SEATTLE, a	)	
municipal corporation,	)	
	)	
Defendants.	)	

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DEPOSITION UPON ORAL EXAMINATION OF  
GARTH HAYNES

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Taken at 2100 Westlake Avenue North  
Suite 206  
Seattle, Washington  
July 10, 2013  
9:30 a.m.

Reported by: Sharon Rindal, CCR No. 2680

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

10 Q Is kicking a suspect in the head ever an appropriate  
11 use of force?

12 A No. But, again, you know, it depends on what the  
13 situation is. Who knows what the situation you might  
14 end up in. But kicking, no, is not.

15 Q So you -- is it your testimony that there are certain  
16 situations in which it is an appropriate use of force  
17 to kick a suspect in the head?

18 A Well, if you get into a fight with somebody who is  
19 beating you up, I mean, you have to, to get him under  
20 control so you can save your life, right?

21 Q Including kicking him in the head?

22 A I'm not saying you should. But you have to do what  
23 you have to do to save your life, right? And  
24 sometimes we do meet suspects that are bigger,  
25 stronger and more trained than us and, you know, if

1       you were a police officer, you would -- in so much  
2       trouble where somebody is really beating you up, you  
3       would do what you have to do to survive, right? Or  
4       would you stop to think about kicking someone in the  
5       head? I mean . . .

6     Q    Okay. So in the situation in which you are working as  
7       a police officer and a suspect is beating you up and  
8       you have to defend yourself, then it would be  
9       appropriate to kick the suspect in the head?

10    A    Well, if it -- if it's necessary to save your life.

11    Q    Okay. But it -- so I want to make sure I understand  
12       what your testimony is.

13                So it would only be appropriate to kick a suspect  
14       in the head if it's for the purpose of saving your own  
15       life?

16    A    Well, it depends. Force -- use of force depends on  
17       the situation. So you have to -- as an individual,  
18       you have to determine, you know, what kind of force  
19       you will use and, you know, when to apply it and when  
20       it's -- like I said, when it's necessary. So kicking  
21       somebody in the head, no, it's not appropriate. But  
22       there's some situations where you do need, you know,  
23       to think about, you know, certain things like, you  
24       know, if it's necessary to save your life.

25    Q    Okay. So I want to be clear.

1           It's not -- your testimony is that it is not  
2           appropriate to kick a suspect in the head?

3    A    No, it's not.

4    Q    No, it's not your testimony or no, it's not --

5    A    No, I said no, it's not appropriate to kick somebody  
6           in the head.

7                           MS. GONZALEZ: We need to change the

8           [REDACTED]  
9           [REDACTED]  
10          [REDACTED]  
11          [REDACTED]  
12          [REDACTED]  
13          [REDACTED]  
14          [REDACTED]  
15          [REDACTED]  
16          [REDACTED]  
17    ●     [REDACTED]  
18          [REDACTED]  
19          [REDACTED]  
20          [REDACTED]  
21          [REDACTED]  
22          [REDACTED]  
23          [REDACTED]  
24    ●     [REDACTED]  
25    ●     [REDACTED]

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15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 Q (By Ms. Gonzalez) What type of situations would it be  
19 permissible for you to use your foot to forcefully  
20 push a suspect's head onto the ground?  
21 A If somebody's attacking you and you can't get them  
22 with your hands, you use your foot.  
23 Q Any other type of situation in which it would be an  
24 appropriate use of force to use your foot to  
25 forcefully push a suspect's head onto the ground?

1 MR. CHRISTIE: Object to the form,  
2 vague, calls for an opinion.

3 You can answer if you can.

4 A I can't think of any other.

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

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16 [REDACTED]

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Q (By Ms. Gonzalez) Is it your position in this case that Jake Baijot-Clary was noncompliant while he was prone and handcuffed on December 12, 2010?

10

11

MR. CHRISTIE: Object to the form.

12

A I -- I don't understand. Repeat the question.

13

Q (By Ms. Gonzalez) Is it your position in this case that Jake Baijot-Clary was noncompliant while he was prone and handcuffed on December 12, 2010?

15

16

A I can't recall that -- that part of December 12th.

17

Q So you don't recall whether Jake Baijot-Clary was handcuffed?

18

19

A I knew he was handcuffed later, but, you know, I don't know -- I can't remember him being handcuffed and compliant on the ground. I can't remember that in the prone position.

22

23

Q So it's your testimony that at the time that you were on the scene on December 12th of 2010, you do not remember that Jake Baijot-Clary was handcuffed?

25



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1 A I know he was handcuffed, but I don't remember, like,  
2 how it occurred.

3 THE REPORTER: Like, how it  
4 occurred?

5 A Yes. I mean, I knew we did it. I knew, you know --  
6 but I -- I just don't recall that part. After I was  
7 kicked in the head, I don't remember.

8 Q (By Ms. Gonzalez) And so, again, I want to -- I want  
9 to be clear.

10 When you were on the scene on December 12th of  
11 2010, you do not know one way or the other -- at that  
12 point in time you do not know one way or the other  
13 whether Jake Baijot-Clary was handcuffed?

14 A I knew he was handcuffed.

15 Q At the time or later?

16 A I knew he was handcuffed later.

17 Q Meaning that you learned that he had -- was handcuffed  
18 while on the ground, but you learned of that fact  
19 later?

20 A Later on.

21 Q Okay. Is it your testimony -- is it going to be your  
22 testimony at the time of trial that Jake Baijot-Clary  
23 was noncompliant while he was prone on the ground?

24 MR. CHRISTIE: Object to the form.

25 A I can't recall.

1 Q (By Ms. Gonzalez) Okay. So you don't recall any  
2 details about what Jake Baijot-Clary was doing while  
3 he was on the ground on December 12th of 2010.

4 Is that your testimony?

5 A No. I can't remember what he was doing after he was  
6 handcuffed and prone on the ground. I can't recall.

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 A [REDACTED]

12 Q [REDACTED]

13 A [REDACTED]

14 Q [REDACTED]

15 A [REDACTED]

16 [REDACTED]

17 Q [REDACTED]

18 A [REDACTED]

19 Q [REDACTED]

20 [REDACTED]

21 A [REDACTED]

22 Q [REDACTED]

23 A [REDACTED]

24 Q [REDACTED]

25 A [REDACTED]

1 [REDACTED]  
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14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 Q (By Ms. Gonzalez) So it was between the time he  
22 arrived, which is at midnight, but certainly no later  
23 than 12:30 that you left?  
24 A Yeah, we -- we left before 12:30.  
25 Q Okay. So what did you and Joel discuss in terms of

1        your plans for the evening once he arrived at Shane's  
2        house?

3        A    He just asked me is there anywhere that, you know,  
4        like, a cool place where you can go and, you know,  
5        have -- you know, have a drink or two where there's  
6        music. You know, he wanted -- likes places with, you  
7        know, music in there, and so -- you know. That was  
8        it.

9        Q    And what did you say?

10       A    Well, I thought about the BalMar because I had been  
11       there before.

12       Q    And had he been to the BalMar?

13       A    I can't recall.

14       Q    All right.

15                And so once you all -- okay. Just so I'm clear,  
16       you suggested the BalMar?

17       A    Yes.

18       Q    And he was fine with that?

19       A    Yes.

20       Q    Okay. So then how did you -- what did you all discuss  
21       in terms of how you would get there?

22       A    We drove there.

23       Q    In separate cars or together?

24       A    Separate cars.

25       Q    Did you tell him how to get to the BalMar?

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1 A He just followed me.

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

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23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 A Well, he was with a group of people. One of the  
12 group -- the group, one of the girls is the one that  
13 took my jacket, stole my jacket.  
14 THE REPORTER: Stole my jacket?  
15 A Stole my jacket.  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 A [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q When you reviewed the OPA file, did you read a  
22 statement from a young woman named Sarah?

23 A I believe so, yes.

24 Q And that's the woman you claim stole your jacket,  
25 correct?

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1 A Yes, ma'am.

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED] [REDACTED]

[REDACTED] [REDACTED]



1

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[REDACTED]

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[REDACTED]

3

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[REDACTED]

4

[REDACTED]

5

●

[REDACTED]

6 Q

Okay. And tell me what you recall about seeing them leave.

8

A

They just all left in a bunch. They just -- you know, because I was, like -- my coats were behind -- our coats were behind us, and we are standing there having our beer, I was having my beer, and the D -- the DJ, the guy playing the music was in front of us, and, like, the dance floor was in front of us, because it's a pretty small dance floor. And the lights came on, and then people just started leaving. But the stairs, like, I could see everybody who was leaving.

17 Q

Okay. Did the -- the group that the Bill Pierre Auto guy was with, did that group leave before the lights came on or after the lights came on?

20 A

I'm not too sure. I think they left when the lights came on. Because once the lights and the music stopped -- when the light came on and the music stopped, it appeared that everybody left. They were starting to leave. So we thought that, yeah, they were going to close since the lights came on. We

1 thought they were going to close the place. So once  
2 everybody started leaving, we just thought, oh, we  
3 should probably leave, too.

4 ● [REDACTED]

5 [REDACTED]

6 ● [REDACTED]

7 ● [REDACTED]

8 [REDACTED]

9 ● [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 ● [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 ● [REDACTED]

18 [REDACTED]

19 ● [REDACTED]

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23 [REDACTED]

24 ● [REDACTED]

25 ● [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 Q [REDACTED]

5 [REDACTED]

6 A [REDACTED]

7 Q [REDACTED]

8 [REDACTED]

9 A [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 A [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 Q [REDACTED]

18 [REDACTED]

19 A [REDACTED]

20 Q [REDACTED]

21 A [REDACTED]

22 Q Were there any other coats around the area where you  
23 put yours?

24 A I don't recall seeing any.

25 Q Okay. Okay. So then you look around upstairs, and

1       you're unsuccessful in your attempt to locate the  
2       coats, and then what do you do?

3     A   Well, I looked all around, and I looked around  
4       upstairs to see if anybody picked it up by accident,  
5       and then I went downstairs and looked -- looked around  
6       downstairs, and then I -- I remember, you know, that  
7       group was kind of standing next to us. So, you know,  
8       I went down there, and I saw them, you know.

9               As soon as I came out the door, you know, the  
10       girl who stole my coat was standing there. And she  
11       was holding coats. She had a coat on. So I stood and  
12       I looked to see -- before I approached her to make  
13       sure if it was my coat she was holding, and I verified  
14       it was mine, so I went and asked her for my coat.

15    Q   Okay. How did you ask her?

16    A   I was, like, Miss, I think you're holding my coat.  
17       And she said -- she said no. Because I'm always  
18       respectful and professional when I approach anybody.

19    [REDACTED]  
20    [REDACTED]  
21    [REDACTED]  
22    [REDACTED]  
23    [REDACTED]  
24       [REDACTED]  
25    [REDACTED]

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9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 Q Okay. So your first thought was, well, there was this  
17 group standing next to us; maybe they accidentally  
18 took our coats?

19 A Yes.

20 Q And then you go downstairs, and you see a young woman  
21 holding coats, and in your mind you verify that those  
22 are yours.

23 How did you go from assuming that maybe it was an  
24 accidental take, versus somebody stealing them?

25 A Well, because when I asked her, I asked her nicely, I

1 was, like, Miss, I think you have my coat. And she's,  
2 like, No, this is not your coat, this is my friend's  
3 coat. And I was, like -- I was, like, Well, you know,  
4 you're wearing a coat and everybody else in your group  
5 is wearing a coat, and I think that's my coat. And  
6 she goes, No, I told you, it's not your f'ing coat.

7 So, I mean, she was getting defensive. Instead  
8 of trying to reason with me, she got irate. I mean,  
9 with my experience as a police officer, when somebody  
10 is acting so defensive and, you know, irrational,  
11 something's up. Something wasn't right.

12 ● [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 ● [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 ● [REDACTED]

21 [REDACTED]

22 ● [REDACTED]

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10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
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14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]

19 Q Okay. So then what did you say in response to that?

20 A Well, when she said that, because she was basically  
21 yelling at this point, you know, whatever group was  
22 around there started huddling, including whoever was  
23 at the hot dog stand, they focused their attention on  
24 us. You know, Joel was there at that point. At that  
25 time, I took my badge out and said, I'm a Seattle

1 police officer, you stole my coat. And she said, I  
2 don't give a fuck if you're a Seattle police officer.

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]



1 [REDACTED]

2 Q Okay. I think you said earlier that you never removed  
3 your gun from the holster; is that correct?

4 A No, I didn't remove the gun from the holster.

5 Q Did you ever lift your shirt to show either Sarah or  
6 anybody else in the crowd that you had a gun?

7 A No.

8 Q When you lifted your shirt to remove the badge, did  
9 you lift it up high enough to show your gun?

10 A Well, I didn't lift it for the intention to show my  
11 gun, but since the badge is so close to the gun, it's  
12 possible that they may have seen the gun with the  
13 badge.

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

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18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 Q Okay. At that point, had you decided what statute she  
25 was in violation of?

1 A She stole my coat.

2 Q Okay. And so at that point in time, had you  
3 determined what -- you're saying that she stole your  
4 coat.

5 What criminal statute was that -- was that a  
6 violation of?

7 A It's a theft.

8 Q And what are the elements of a theft?

9 A When you take something that belongs to somebody else.

10 Q Is there an intent requirement?

11 A I don't know if she had intent or not.

12 ● [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 ● [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 ● [REDACTED]

19 [REDACTED]

20 ● [REDACTED]

21 ● [REDACTED]

22 ● [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 ● [REDACTED]

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15 Q (By Ms. Gonzalez) Officer Haynes, you have seen the  
16 dash cam footage related to this case in which you  
17 appear; is that correct?

18 A Yes.

19 Q Okay. And would you agree that the video shows that  
20 you place your foot on Mr. Baijot-Clary's head?

21 A Well, whatever the video shows, that's what -- what  
22 happened.

23 Q So when you saw the video, what did you see it  
24 showing?

25 A I mean, you saw the video. I mean, do I have to

1           actually say what I saw? I mean --

2   Q   Yes, you do.

3                       THE WITNESS: Do I have to?

4                       MR. JACKSON: You have to answer her  
5           questions. I'll object that the video speaks for  
6           itself, but you have to answer her questions.

7   A   Go ahead and repeat the question.

8   Q   (By Ms. Gonzalez) Sure. What did -- what do you --  
9           when you viewed the video, what did you see on it in  
10          terms of your conduct?

11   A   Well, it wasn't -- it was something I wouldn't do on a  
12          normal day. Let's put it that way.

13   Q   I wasn't asking --

14   A   It wasn't good conduct.

15   Q   Was it --

16   A   Was that good?

17   Q   I'm asking you to describe for me in your own words  
18          what you saw yourself do when you watched the dash cam  
19          footage.

20   A   You want me to describe what I saw exactly what I did?

21   Q   Yes.

22   A   Well, the video showed me, you know, pushing him with  
23          my foot.

24   Q   Pushing him where?

25   A   Pushing him down with my foot.

1 Q What part of your body -- what part of your body  
2 contacted his body?

3 A Well, my -- it -- the video showed that my foot was  
4 pushing his head down.

5 Q Down into what?

6 A To the ground.

7 Q And when you watch the dash cam footage, did you see  
8 that Mr. Baijot-Clary was handcuffed?

9 A Well, yeah, after the whole incident I watched it,  
10 yeah, I saw it.

11 Q And was there any justified reason for your conduct in  
12 terms of putting your foot on his head?

13 A Well, I said there's no justified reason, you know.

14 ● [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 ● [REDACTED]

18 ● [REDACTED]

19 [REDACTED]

20 ● [REDACTED]

21 ● [REDACTED]

22 ● [REDACTED]

23 [REDACTED]

24 ● [REDACTED]

25 [REDACTED]